

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application)

of)

MOLOKAI PUBLIC UTILITIES, INC.)

For review and approval of rate)
increases; revised rate schedules; and)
revised rules.)

Docket No. 2009-0048

PUBLIC UTILITIES
COMMISSION

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FILED

DIVISION OF CONSUMER ADVOCACY'S AND
MOLOKAI PUBLIC UTILITIES, INC.'S
JOINT UPDATED STATEMENT OF PROBABLE ENTITLEMENT

and

CERTIFICATE OF SERVICE

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**DIVISION OF CONSUMER ADVOCACY'S AND
MOLOKAI PUBLIC UTILITIES, INC.'S
JOINT UPDATED STATEMENT OF PROBABLE ENTITLEMENT**

Pursuant to the Public Utilities Commission's ("Commission") oral directive issued on May 13, 2010 and as memorialized in the Commission's letter dated May 18, 2010, the Division of Consumer Advocacy ("Consumer Advocate") and Molokai Public Utilities, Inc. ("MPUI") respectfully submit this Joint Updated Statement of Probable Entitlement ("Joint Statement") in the above-docketed matter. This Joint Statement supersedes the Statements of Probable Entitlement filed individually by the Consumer Advocate and MPUI on March 10, 2010.

I. INTRODUCTION

HRS § 269-16(d) states that an interim decision allows the Commission to grant an increase in rates, fares, and charges, if any, to which the Commission believes the public utility is probably entitled based on the evidentiary record in a ratemaking proceeding. It is the Consumer Advocate's and MPUI's understanding that this statutory provision was enacted to be fair to both the utility and the ratepayer. There is mitigated adverse impact, if any, to the utility from any delays in implementing the rate relief that is deemed just and reasonable by granting the utility interim rate relief, based upon the revenue requirement to which the Commission will

likely find reasonable in its final decision and order (i.e., the increase in revenue requirement to which the utility is probably entitled). Should the interim rate relief be higher than the relief found to be just and reasonable in the final Decision and Order, the ratepayer is protected since the utility must return, in the form of an adjustment to rates, any amounts received under the interim rates that are in excess of the rates, fares, or charges finally determined to be just and reasonable by the Commission. Interest that is computed at a rate equal to the rate of return on the public utility's rate base found to be reasonable by the Commission must also be imputed on the amount to be returned.

Given the above, the determination of probable entitlement should be based on the level of revenue requirement and resulting rates which the Commission is likely to determine in the final decision and order to be just and reasonable based on the evidence in the record.

II. PROCEDURAL HISTORY

On March 2, 2009, MPUI filed its Application for Approval to Increase Rates ("Application"). MPUI's Application included the direct testimonies, exhibits and workpapers in support of its Application. The Commission ordered MPUI to re-file its Application to include the filing of audited financial statements by MPUI.

On June 29, 2009, MPUI re-filed its Application and the Commission confirmed completion upon issuance of its Order Regarding Completed Application and Other Matters, issued on July 29, 2009.

On September 3, 2009, an advertised public hearing was held at the Mitchell Pauole Center Conference Room in Kaunakakai, Molokai, as required by HRS § 269-16, with notice pursuant to HRS § 269-12.

On September 11, 2009, the County of Maui ("County") and West Molokai Association ("WMA") filed their respective motions for intervention or to participate in the proceeding with the Commission.

On September 14, 2009, Stand for Water ("SFW") filed its respective motion for intervention or to participate in the proceeding with the Commission.

On October 16, 2009, the Commission granted intervention to the County, WMA, and SFW, and unilaterally named Molokai Properties, Limited ("MPL") as a party.

On January 19, 2010, the Commission, on its own motion, dismissed SFW as an intervenor based upon the Commission's determination that SFW failed to assist in developing a sound record and participate meaningfully in the docket.

As a result, the parties to the proceeding are MPUI, the Consumer Advocate, the County, WMA, and MPL.

Pursuant to the Commission's Order Approving Proposed Procedural Order, filed on November 6, 2009, the parties engaged in several rounds of information requests and responses.

On January 6, 2010, WMA filed its direct testimonies and exhibits. The Consumer Advocate filed its direct testimonies, exhibits and workpapers on January 13, 2010. The County and MPL did not file any testimony or exhibits.

MPUI filed its rebuttal testimony and exhibits on February 8, 2010.

All parties filed their respective Statements of Probable Entitlement on March 10, 2010, and responses were filed on March 17, 2010.

Subsequently, the parties engaged in mediation efforts to attempt to settle their differences. On May 3, 2010, the Consumer Advocate offered a settlement proposal to all the parties. MPUI, after clarifying a few of the items proposed for settlement, accepted the Consumer Advocate's proposal. The other parties did not respond to the Consumer Advocate's settlement offer.

On May 6, 2010, MPUI filed a letter that notified the Commission that it had reached full settlement of the outstanding rate issues with the Consumer Advocate. The letter included worksheets (MPUI submitted revised worksheets on May 11, 2010) and a two-page summary

entitled "Principles of Settlement" which outlined key agreements supporting the settlement as well as additional terms and conditions that MPUI agreed upon. Because settlement was not reached with the other parties, the evidentiary hearing was held on May 11, 12, and 13, 2010.

III. DISCUSSION

A. BACKGROUND REGARDING THE PRESENT RATES

The current effective temporary rates were approved by the Commission in its Order Approving Temporary Rate Relief for MPUI and Wai'ola O Moloka'i, Inc. ("WOM") filed in Docket No. 2008-0115 on August 14, 2008 ("Temporary Rate Relief Order"). These current effective temporary rates were implemented to address the apparent, urgent need for rate relief for MPUI and WOM, who, if their asserted needs were not addressed, contended that they would be terminating utility service to all of its service customers. Otherwise, the last Commission-approved rates, which were the result of a complete investigation, were derived in Docket No. 02-0371 and approved by the Commission in Decision and Order No. 20342, filed on July 18, 2003.

Pursuant to the Commission's Order Denying Molokai Public Utilities, Inc.'s Request to Submit Its Unaudited Financial Statements In Lieu Of Audited Financial Statements filed on April 2, 2009 in the instant proceeding, the calculation of increases uses the rates approved in Docket No. 02-0371.

B. SETTLEMENT OF DIFFERENCES

The Consumer Advocate reiterates that it takes seriously the possible risk that, if not properly compensated, a utility company might not be able to provide quality and reliable service to utility customers. Therefore, the revenue requirements, as agreed to by the Consumer Advocate and MPUI (collectively, the "Settling Parties"), reflect a reasonable level, as supported by the record in this proceeding, that would allow MPUI to recover sufficient revenues to recover costs and not unduly burden MPUI's customers.

The Consumer Advocate's March 10, 2010 Statement of Probable Entitlement identified the major differences with MPUI in the test year expenses. Following is a discussion of how these differences were resolved.

1. Plant and Associated Depreciation

The Consumer Advocate had recommended disallowance of certain plant items because MPUI had reflected book depreciation for certain items, but had not reflected any tax depreciation for these items. As a result of its inability to find records on why this discrepancy occurs, MPUI had recommended that all income taxes expenses and associated items should be excluded from the instant proceeding. The associated items would essentially consist of Accumulated Deferred Income Taxes ("ADIT") with the accumulated Hawaii State Capital Goods Excise Tax Credit ("HSCGETC") also being excluded.

Because the Settling Parties have agreed that there will be no rate of return on rate base included in the establishment of the revenue requirement, the determination of rate base is made somewhat moot in the instant proceeding. For purpose of this proceeding, the parties agree that there should be no ADIT nor HSCGETC balances, but that each party acknowledges the remaining difference in the appropriate net plant-in-service balance. Since the impact of rate base on the determination of revenue requirements and rates has been made moot by the agreement that there will be no rate of return, the Settling Parties' differences in rate base have been resolved for this proceeding. In addition, the Principles of Settlement provide for MPUI to conduct various studies and reconciliations that should resolve all rate base and tax issues before the next rate case is submitted by MPUI. MPUI and the Consumer Advocate agree for the purposes of the instant proceeding that depreciation expense should be \$5,587 [and that, since there is no return on rate base in the instant rate proceeding, rate base may be reflected as being zero].

2. Materials and Supplies

The Consumer Advocate's concerns with MPUI's estimates were primarily based upon the observed differences resulting from changes in accounting procedures. The Settling Parties agreed to use a three-year average of direct expenses recorded by MPUI and 50% of the three-year average of MPL expenses allocated to MPUI. Moreover, MPUI agreed to conduct a study *to evaluate and determine the proper allocation procedures and factors before its next rate proceeding*. Thus, MPUI and the Consumer Advocate recommend that the Commission allow \$47,636 for the test year for materials & supplies.

3. Regulatory Expense

The Settling Parties agreed that MPUI may recover an amortized amount of \$75,000 for regulatory expenses.

4. Fuel and Electricity Expense

The Consumer Advocate proposed to modify its calculation of the fuel and electricity expense by increasing the lost and unaccounted for water factor from 10 percent to 15 percent for settlement purposes and also agreed to use a three-year average for the determination of the price per gallon of fuel and also for the cost per kWh. MPUI accepted the use of the 15 percent water loss and also agreed that it would not seek to implement automatic adjustment clauses in this proceeding. Based upon the agreement, the recommended level of electricity and fuel expense is \$191,710 and \$182,015, respectively.

5. Labor and Benefits Expenses

MPUI's labor and benefits expense test year estimate was \$209,865 and the Consumer Advocate recommended that certain adjustments be made, primarily to reflect the removal of one position that was not going to be filled, the removal of any salary increase, and to reflect the reduction of benefits to reflect a greater level of contributions from employees for those benefits.

MPUI acknowledged that the position in question will not be filled and should be removed from the test year estimates. Additionally, for purposes of settlement, MPUI agreed to

the removal of salary increases from revenue requirements and to a 50% reduction in total employee benefit costs, resulting in total labor and benefits expense of \$165,308.

6. Rate Design

WMA advocates a different rate design from that which is currently approved. While the County did not file any direct testimony, it appears that the County might be supporting the rate design proposals set forth by WMA. The Consumer Advocate and MPUI, however, believe that additional analysis of the appropriate rate design is necessary and, thus, MPUI agrees that it will conduct a cost of service study prior to the next rate case. This cost of service study will be based on adequate and sufficient records and will address, at a minimum, the proper allocation of costs among fixed and variable costs and the establishment of inclining tiered usage rates. Without the benefit of a cost of service study and the appropriate data, however, it does not appear reasonable to conduct that analysis in the instant rate proceeding. Therefore, an across-the-board increase should be adopted in this proceeding.

IV. RECOMMENDATION

As a result of additional discussions subsequent to their respective filings of Statements of Probable Entitlement on March 10, 2010, the Consumer Advocate and MPUI concur that MPUI is probably entitled to a total revenue requirement of \$982,338.

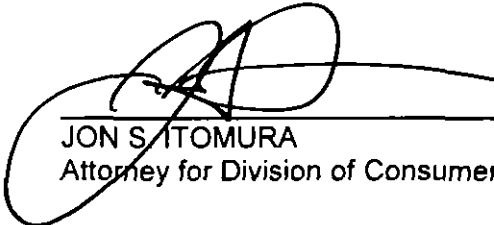
Attachment 1 attached hereto provides the revenue requirements and results of operations for the forecast test year ending June 30, 2010 ("Test Year"). This is a two page attachment which shows the changes in MPUI's rebuttal position in columns 1 to 3 and changes in the Consumer Advocate's as filed position in columns 5 to 7 on page 1. Page 2 reflects the rate changes required to achieve the revenue requirement including a phase in proposal. The entire increase should be applied on an across-the-board basis.

Since MPUI and the Consumer Advocate have agreed on a phase in for the rate increase, the Company suggests that the Commission authorize the Phase 1 rates to be effective on May 29, 2010 with the Commission's interim decision and order. Subsequently, the

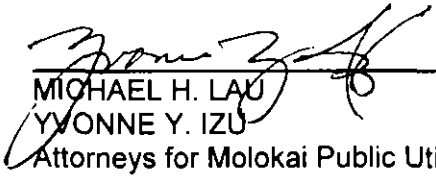
Phase II, or final, rates, are to become effective at the end of a six-month period following the effective date of the Commission's interim decision and order or as of the effective date of the Commission's final decision and order, whichever comes later.. The permanent rates, which would be equal to the final rates can then be confirmed when the Commission's final decision is issued.

DATED: Honolulu, Hawaii, May 18, 2010.

Respectfully submitted,



JON S. ITOMURA
Attorney for Division of Consumer Advocacy



MICHAEL H. LAU
YVONNE Y. IZU
Attorneys for Molokai Public Utilities, Inc.

ATTACHMENT 1

Molokai Public Utilities, Inc
Company and Consumer Advocate Companson
Test Year Ending June 30, 2010

	[1]	[2]	[3]	[4]	[5]	[6]	[7]
	MPU				Consumer Advocate		
Line #	Rebuttal At Proposed Revenue	Settlement Adjustment	Settlement At Proposed Revenue	Difference	Advocate Settlement	Settlement Adjustment	As Filed At Proposed Rates
REVENUE							
1 Monthly Customer Charge	\$ 144,449	(22,365)	\$ 122,084	\$ -	\$122,084	\$10,722	\$111,362
2 Water Usage Charge	1,050,985	(283,351)	767,634	-	767,634	75,526	692,108
3 Water Usage at Kualapuu Tap		59,856	59,856	-	59,856	5,889	53,967
4 Water Treatment To WOM		20,191	20,191	-	20,191	20,191	
5 Vacant Lot Fee	0	9,828	9,828	-	9,828	9,828	
6 Late Fees	1,300		1,300	-	1,300		1,300
7 Hydrant Fees		1,440	1,440	0	1,440	1,440	
8 Total Operating Revenues	1,196,734	(214,401)	982,333	0	982,333	123,596	858,737
EXPENSES							
9 Labor, PR Tax & Empl Bene	193,885	(28,577)	165,308	-	165,308	0	165,308
10 Electricity Expense	153,849	37,861	191,710	-	191,710	58,271	133,439
11 Fuel Expense	199,887	(17,872)	182,015	-	182,015	11,774	170,241
12 Dept of Agriculture	136,497		136,497	-	136,497	(7,959)	144,456
13			-	-			
14 Materials & Supplies	85,583	(37,947)	47,636	-	47,636	33,626	14,010
15 Affiliated Charges	9,600		9,600	-	9,600		9,600
16 Prof & Outside Services	14,137		14,137	-	14,137		14,137
17 Repairs & Maintenance	65,812		65,812	-	65,812		65,812
18			-	-			
19 Insurance	13,000		13,000	-	13,000		13,000
20 Regulatory Expense	125,794	(50,794)	75,000	-	75,000	20,000	55,000
21 General & Administrative	13,318		13,318	-	13,318		13,318
22 Total O&M Expenses	1,011,362	(97,329)	914,033	0	914,033	115,712	798,321
23 Taxes, Other Than Income	76,411	(13,690)	62,722	(0)	62,722	7,892	54,830
24 Depreciation	84,478	(78,891)	5,587	-	5,587	0	5,587
25 Income Taxes	0		-	-	0		
26 Rounding		(9)	(9)	-	(9)	(9)	
27 Total Operating Expenses	1,172,251	(189,919)	982,333	(0)	982,333	123,595	858,738
28 Operating Income	\$24,483	(\$24,482)	\$0	\$0	\$0	\$1	(\$1)
AVERAGE RATE BASE							
29 Plant in Service	\$ 6,583,033	\$ (40,000)	\$ 6,543,033	\$ -	6,543,033		\$ 6,543,033
30 Accumulated Depreciation	(\$465,450)		(\$465,450)	(1,014,141)	(6,479,591)		(6,479,591)
31 Net Plant	1,117,583	(40,000)	1,077,583	(1,014,141)	63,442	-	63,442
32							
33 Customer Deposits	(10,691)		(10,691)	-	(10,691)		(10,691)
34 ADIT	0		-	-	0		-
35 HCGETC	0		-	(199,531)	(199,531)		(199,531)
36 Working Capital	83,170	(8,111)	75,059	0	75,060	9,643	65,417
37 Average Rate Base	\$ 1,190,062	\$ (48,111)	\$ 1,141,951	\$ (1,213,672)	\$ (71,720)	\$ 9,643	\$ (81,363)
38 Return on Rate Base	2.06%						

Molokai Public Utilities, Inc. Revenues Test Year Ending June 30, 2010															
		[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]	[10]	[11]	[12]	[13]	[14]
			# of Cust Bills Or Water Usage	Base Rates Effective 8-1-03			Temporary Rates Effective 9-1-08			Phase-One Rates			Final Rates		
Line #	Description	Meter Size		Monthly Rate	Annual Revenue [2] * [3]	Total Revenue	Monthly Rate	Annual Revenue [2] * [6]	Total Revenue	Monthly Rate	Annual Revenue [2] * [9]	Total Revenue	Monthly Rate	Annual Revenue [2] * [12]	Total Revenue
1	Charges to WOM for Water Treatment	TG	18,656	\$ 1.00		18,656	\$ 2.78		\$ 51,864	\$ 1.0823		\$ 20,191	\$ 1.08230		\$ 20,191
2	Rate Increase Percent									112.00%			132.260%		
3	Vacant Lot Charges - Billed Once Per Year		117	\$ 3.00		4,212	\$ 3.00		\$ 4,212	\$6.00		\$ 8,424	\$ 7.00		9,828
3A	Private Fire Hydrants	10" - 12 mo	120	\$ 5.25		630				\$11.00		\$ 1,320	\$ 12.00		1,440
Monthly Customer Charge															
4	# of Customers (250)	5/8" Meter	2,350	\$11.25	\$ 26,438		\$11.25	\$ 26,438		\$24.00	\$ 56,400		\$ 26.00	\$61,100	
5	# of Customers (251)	1.0" Meter	12	\$15.00	180		\$15.00	180		\$32.00	384		\$ 35.00	420	
6	# of Customers (253)	1.5" Meter	12	\$22.50	270		\$22.50	270		\$48.00	576		\$ 52.00	624	
7	# of Customers (254)	2.0" Meter	36	\$37.50	1,350		\$37.50	1,350		\$80.00	2,880		\$ 87.00	3,132	
8	# of Customers (255)	3" Meter	26	\$75.00	1,950		\$75.00	1,950		\$159.00	4,134		\$ 174.00	4,524	
9	# of Customers (257)	6" Meter	60	\$225.00	13,500		\$225.00	13,500		\$477.00	28,620		\$ 523.00	31,380	
10	# of Customers (258)	8" Meter	24	\$375.00	9,000		\$375.00	9,000		\$795.00	19,080		\$ 871.00	20,904	
11	Sub-Total	L 4 to L 10	2,520			\$52,688			\$52,688			\$112,074			\$122,084
Water Usage Charge															
12	Water Use for Test Year (000 gallons)	TG	103,900	\$ 3.18	330,402		\$ 6.04	627,556		\$6,714.1	697,595		\$7,388.2	767,634	
13	Water To Waiola At Kualapuu Tap	TG	22,900	\$ 1.1250	25,763		\$ 1.1250	25,763		\$2,375.3	54,394		\$2,613.8	59,856	
14	Total Water Sales	L 12 + L 13	126,800												
15	Usage Revenue	L 12 + L 13				356,165			653,319			751,989			827,490
16	Total Revenue	L 1 to L 15				\$432,351			\$762,083			\$893,998			\$ 981,033
17	Revenue Increase To Temporary Rates							\$329,732							
18	Other Revenue					1,300						1,300			1,300
19	Revenue Increase over Temporary Rates										\$131,916		\$ 218,951		
20	Total Revenue From Phase In and Final													\$548,682	
21	Total Revenue Increase from Present Rates														
22	Total Revenue					\$433,651						\$895,298			\$ 982,333

CERTIFICATE OF SERVICE

I (we) hereby certify that copies of the foregoing document were duly served on the following parties, by having said copies delivered as set forth below:

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Attorney for MOLOKAI PROPERTIES LIMITED

DATED: Honolulu, Hawai'i, May 18, 2010.



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